

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 86368-001

v

Alliance Health & Life Insurance Company
Respondent

Issued and entered
this 28th day of December 2007
by Ken Ross
Acting Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On November 19, 2007, XXXXX the authorized representative of his minor daughter XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the information and accepted the request on November 28, 2007.

The Commissioner notified Alliance Health and Life Insurance Company of the external review and requested the information used in making its adverse determination. The company provided its information on November 21, 2007.

The issue here can be decided by an analysis of the Petitioner's health care policy. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II

FACTUAL BACKGROUND

The Petitioner has health care coverage under a group plan with Alliance. The Petitioner

has been diagnosed with several dental problems – maxillary hypoplasia with associated malocclusion and masticatory dysfunction. Petitioner requested authorization for removal of four impacted wisdom teeth, a maxillary osteotomy with graft, and construction of a stabilization fixation splint. Alliance denied the request. After the Petitioner's provider appealed, Alliance maintained its denial and issued an adverse determination dated July 18, 2007. The Petitioner's second level appeal was denied by Alliance which issued its final adverse determination on September 19, 2007.

III ISSUE

Is Alliance correct in denying coverage for the Petitioner's orthognathic surgery?

IV ANALYSIS

Alliance Health and Life Insurance Company's Argument

Alliance says that the Petitioner's policy specifically excludes oral surgery in its "Exclusions and Limitations" section which states in part:

Oral, Maxillofacial, and Dentistry Services

1) (b) Oral or maxillofacial surgery is not covered under this Policy unless specifically covered in Section 3.18.

* * *

Section 3.18 Dental, Oral and Maxillofacial Expenses

(a) Dental, oral and maxillofacial Services will be considered a Covered Service under this Policy on a secondary payor level only. Denial of coverage from the primary dental carrier, if applicable, will be required before benefits will be considered for coverage under this Policy.

1) Covered Services may include the following:

- a) Emergency treatment and prompt repair for fractures of the jaw and facial dislocation of the jaw.
- b) Emergency treatment and prompt repair of traumatic injury resulting from a non-occupational injury which occurs while this Subscriber/Dependent is covered under this Policy.
- c) Hospital and related professional services when multiple extractions, concurrent with a hazardous medical condition require the procedure to be performed in the Hospital.
- d) Removal of teeth for treatment of lesions, tumors or cysts.

(b) This section does not cover Charges incurred for:

* * *

7) Dental services outside of the emergency setting including, but

not limited to, dental x-rays, dental prosthetics, dental implants, oral surgery and dental filling, removal or replacement of teeth or structures directly supporting teeth.

8) Any service related to orthognathic, oral or maxillofacial surgery.

Alliance states that the service requested is orthognathic surgery and is not a benefit under the Petitioner's plan.

Petitioner's Argument

The Petitioner's father says the Petitioner will lose up to six of her teeth due to occlusal trauma if her condition is not resolved with surgery. He says the Petitioner's condition as documented by Drs. XXXXX and XXXXX is in fact a hazardous medical condition.

In the request for external review, the Petitioner's father argues that the Petitioner's jaw surgery and multiple extractions are concurrent with a hazardous medical condition which requires the procedure to be performed in the hospital and therefore coverage should be provided.

The Petitioner believes that Alliance should provide coverage for the proposed orthognathic surgery.

Commissioner's Review

The Commissioner has considered the arguments of both parties and reviewed the provisions of the Petitioner's policy. The policy states that "oral or maxillofacial surgery and other conditions of the joint linking the jawbone and the skull are not covered under this contract."

Coverage for oral and maxillofacial services under Section 3.18 is limited to emergency situations, circumstances where extractions must be performed in a hospital because of a hazardous medical condition, or where teeth are removed to treat lesions, tumors, or cysts of the mouth. Petitioner's father argues that Petitioner has a hazardous medical condition and, for that reason, under section 3.18(a)(1)(c) coverage must be provided for the jaw surgery and extractions. This argument misapplies section 3.18(a)(1)(c). This section of the policy states only that hospital and related services are covered when extractions must be performed in the hospital because of an

individual's medical condition. In the present case, there is no indication that Petitioner must be hospitalized for the extractions.

The Commissioner understands the value of this surgery to the Petitioner but, in deciding this case, is bound by the terms and conditions of the Petitioner's policy which specifically excludes orthognathic and maxillofacial surgery. The Commissioner finds that Alliance processed the preauthorization request correctly and denied coverage according to the terms and conditions of the Petitioner's policy.

**V
ORDER**

The Commissioner upholds Alliance Insurance Company's adverse determination of July 18, 2007.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.